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OS REGISTRY
FILE SEC-2 Polygraph/Legal
S. 1815

OLL 85-3952
19 December 1985

MEMORANDUM FOR: DC/ALD/OGC
C/PB/PPG/OS
C/SECOM

FROM: [redacted] STAT
Legislation Division
Office of Legislative Liaison

SUBJECT: Request for Comments: DoJ Views Letter on S. 1815

1. Attached for your review and comment please find a copy of a draft version of a letter from the Department of Justice to Senator Hatch, Chairman of the Senate Committee on Labor and Human Resources. The letter states the Department's views on S. 1815, a bill to ban the private use of polygraph examinations.

2. The Office of Management and Budget (OMB) has asked for the Agency's views by close of business, Friday, December 20, 1985. We would therefore appreciate receiving your views by noon on that date.

3. As you know, S. 1815 would ban the private use of polygraphs. It has an exception, however, for the government (and its employees) and also an exemption for employees of contractors of the Department of Defense. As you will recall, this exemption was not sufficient to meet the Agency's requirements. A letter from the Director of Central Intelligence (DCI) to Chairman Hatch seeking an exemption on behalf of the employees of contractors of all agencies in the Intelligence Community was therefore prepared by this Office and sent to OMB for clearance.

4. OMB to date has not cleared this letter. Instead, it is attempting to get all agencies to line up behind an "across the board" exemption for employees of contractors of all agencies who have access to classified information. The vehicle by which it is attempting to achieve this is the Justice letter. Specifically, if OMB can achieve concurrence on that letter, it will likely not approve any other agency views letters, including the DCI's letter, unless they express support for the "across-the-board" exemption.

rec'd by WANG in PPG
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5. Before reaching the issue of the DCI's letter, however, the Agency must first determine whether or not it objects to the Justice views letter. In particular, it must determine whether or not the amendment which Justice proposes to the bill, contained on page 2 of the letter, is sufficient to meet the Agency's concerns.

Exemptions

Sec. 8

> The provisions of this Act shall not apply with respect to any individual who is employed by the United States Government, a state government, city, or any political subdivision of a state or city, nor shall this Act prohibit the administration, in connection with the performance of any function requiring access to classified information, of a polygraph examination to personnel of a contractor to the Central Intelligence Agency, the Department of Defense, the Department of Energy, the Department of State the Federal Bureau of Investigation, the National Security Agency, the Treasury Department, or other federal agencies or departments whose contractors require access to classified information.

Accordingly, I would appreciate receiving your comments on the sufficiency of the amendment, as well as any other comments you may have.

6. If it is determined that the Justice letter and amendment can be supported, then the next step will be to determine what should be done with the DCI's views letter: should it be modified to express support for the Justice exemption or should it be withdrawn from consideration.

7. Your cooperation is most appreciated.

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Attachment:
as stated

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